

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

In re:

CITY OF DETROIT, MICHIGAN,

Chapter 9

Case No. 13-53846

Hon. Steven W. Rhodes

Debtor.

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**INTERESTED PARTY GABRIEL ROEDER SMITH & CO.'S  
RESPONSE AND OBJECTIONS TO THE CITY OF DETROIT'S  
SUBPOENA DATED AUGUST 23, 2013**

Interested party, Gabriel Roeder Smith & Co. ("Gabriel Roeder"), by its attorneys, Stevenson & Bullock, P.L.C., states for its Response and Objections to the City of Detroit's Subpoena Dated August 23, 2013, as follows:

**PRELIMINARY STATEMENT**

Gabriel Roeder is a Michigan based company with a national practice, and it is a leader in public sector retirement consulting. Gabriel Roeder has been in business for over 75 years and has been the retained actuary for both the General Retirement System of the City of Detroit (the "GRS"), and the Police and Fire Retirement System of the City of Detroit (the "PFRS") for over fifty (50) years. Gabriel Roeder enjoys a competitive advantage over many of its competitors by virtue of its proprietary valuation processes and software, which Gabriel Roeder has spent significant amounts of time and resources developing over the years for the benefit of its clients. In fact, Gabriel Roeder writes and maintains much of its own, proprietary valuation software, which is exclusively designed for public sector benefit plans like the GRS and PFRS. As a result, Gabriel Roeder asserts an objection to the documents requests in the Subpoena served by the City of Detroit for the purpose of protecting its proprietary software and processes, as is more fully set forth in response to specific document requests below.

## **RESPONSES AND OBJECTIONS TO THE DOCUMENT REQUESTS**

Gabriel Roeder hereby responds and objects to the Requests as follows:

### **I. OBJECTIONS TO REQUEST NO. 1:**

A. The Request is overly broad, unduly burdensome and fails to reasonably identify the specific documents or categories of documents requested because it seeks the production of *all documents*...that support, explain, or may be used to verify the information, data, calculations...and methods set forth or used in each annual actuarial report prepared by Gabriel Roeder for the GRS and PFRS since 2004, but it fails to describe the documents or categories of documents with reasonable particularity as required under Fed. R. Civ. P. 34(b)(1)(A). In addition to relying upon the insufficiently descriptive term, “all documents,” the Request only limits that universe of all documents to those that may support, explain or be used to verify information, data, calculations, assumptions and/or methods in annual actuarial reports for GRS and PFRS since 2004. The number of potentially responsive documents, therefore, is arguably limitless, and Gabriel Roeder is left to guess exactly which documents are requested. The problem is illustrated by the likely existence of documents that were not specifically relied upon, referred to, reviewed or otherwise used by Gabriel Roeder in connection with the preparation of a particular annual, but which, nonetheless, may arguably explain, support or verify some quantum of minutiae contained in any one of the annual reports. Gabriel Roeder, therefore, is unable to specifically identify, locate and produce each and every document that may remain in its possession, custody or control that may support, explain or be used to verify the information in the annual reports; and

B. The Request, in part, seeks the production of documents that reveal Gabriel Roeder’s confidential and proprietary commercial processes and software source codes, which

Gabriel Roeder has spent significant time and resources developing over the years and which constitute proprietary, confidential and trade secret information belonging to Gabriel Roeder, which is referred to collectively as the “Confidential Information.” It is this Confidential Information that differentiates Gabriel Roeder from its competitors and allows it to succeed over its competitors. Disclosure of the Confidential Information, particularly to Milliman (a Seattle based consulting firm, engaged by the City of Detroit to perform actuarial analyses of the PFRS and GRS in connection with the April 2012 financial stability agreement between the State of Michigan and the City of Detroit and a direct competitor of Gabriel Roeder), would result in substantial harm to Gabriel Roeder in the market-place and provide competitors with an unfair, competitive advantage.

Pursuant to this Objection, Gabriel Roeder intends to withhold production of certain documents containing Confidential Information, but there is no substantial need for their production in any event because virtually all of the relevant information, data and analyses concerning the information, data, calculations...and methods set forth or used in each annual actuarial report, which is contained in documents withheld to protect Confidential Information is also contained and summarized in other documents being produced without objection. Finally, to the extent documents containing Confidential Information are withheld from production, they will be identified in a log of withheld documents consistent with the requirements of Fed. R. Civ. P. 26 & 34.

## **II. RESPONSE TO REQUEST NO. 1:**

Subject to its Objections stated above, and based upon Gabriel Roeder’s information, knowledge and belief, formed after reasonable inquiry, Gabriel Roeder will produce and permit the City of Detroit to inspect and copy all of the documents in its possession, custody or control,

apart from those containing Confidential Information, that Gabriel Roeder reasonably believes support, explain or may be used to verify the information, data, calculations, actuarial assumptions and methods set forth or used in each of its annual actuarial reports respecting the GRS and PFRS since 2004. Gabriel Roeder shall produce the responsive document as they are kept in the ordinary course of business at the offices of Stevenson & Bullock, P.L.C. upon reasonable notice and during normal business hours.

### **III. OBJECTION TO REQUEST NO. 2:**

The Request, in part, seeks the production of documents that reveal Gabriel Roeder's Confidential Information, which if disclosed, particularly to Milliman (the City of Detroit's retained actuarial consultants and a direct competitor of Gabriel Roeder), would result in substantial harm to Gabriel Roeder in the market-place and provide competitors with an unfair, competitive advantage. Pursuant to this Objection, Gabriel Roeder intends to withhold production of certain documents containing Confidential Information, but there is no substantial need for their production in any event because virtually all of the relevant information, data and analyses contained in documents withheld to protect Confidential Information is also contained and summarized in other documents being produced without objection. Finally, to the extent documents containing Confidential Information are withheld from production, they will be identified in a log of withheld documents consistent with the requirements of Fed. R. Civ. P. 26 & 34.

### **IV. RESPONSE TO REQUEST NO. 2:**

Based upon Gabriel Roeder's information, knowledge and belief formed after reasonable inquiry, Gabriel Roeder shall produce and permit the City of Detroit to inspect and copy all of the documents in its possession, custody or control, apart from those containing Confidential

Information, which Gabriel Roeder reasonably believes relate to requests by GRS, recommendations to GRS or analyses by Gabriel Roeder, concerning modifications of the actuarial assumptions and methods used by Gabriel Roeder since 2004. Gabriel Roeder shall produce the responsive document as they are kept in the ordinary course of business at the offices of Stevenson & Bullock, P.L.C. upon reasonable notice and during normal business hours.

**V. OBJECTION TO REQUEST NO. 3:**

The Request, in part, seeks the production of documents that reveal Gabriel Roeder's Confidential Information, which if disclosed, particularly to Milliman (the City of Detroit's retained actuarial consultants and a direct competitor of Gabriel Roeder), would result in substantial harm to Gabriel Roeder in the market-place and provide competitors with an unfair, competitive advantage. Although Gabriel Roeder intends to withhold production of any documents that reveal its Confidential Information, there is no substantial need for their production because all of the relevant information contained in any such withheld documents is summarized and contained in other documents that are being produced without objection. Finally, to the extent documents containing Confidential Information are withheld from production, they will be identified in a log of withheld documents consistent with the requirements of Fed. R. Civ. P. 26 & 34.

**VI. RESPONSE TO REQUEST NO. 3:**

Based upon Gabriel Roeder's information, knowledge and belief formed after reasonable inquiry, Gabriel Roeder shall produce and permit the City of Detroit to inspect and copy all of the documents in its possession, custody or control, apart from those containing Confidential Information, which Gabriel Roeder reasonably believes relate to requests by PFRS,

recommendations to PFRS or analyses by Gabriel Roeder, concerning modifications of the actuarial assumptions and methods used by Gabriel Roeder since 2004. Gabriel Roeder shall produce the responsive document as they are kept in the ordinary course of business at the offices of Stevenson & Bullock, P.L.C. upon reasonable notice and during normal business hours.

**VII. RESPONSE TO REQUEST NO. 4:**

Gabriel Roeder is not aware of any modification to the 30 year open period to amortize GRS unfunded actuarial accrued liabilities, and therefore, Gabriel Roeder is not in possession, custody or control of documents that are response to this Request.

**VIII. RESPONSE TO REQUEST NO. 5:**

Gabriel Roeder is not aware of any modification to the 29 year closed period to amortize PFRS unfunded actuarial accrued liabilities, and therefore, Gabriel Roeder is not in possession, custody or control of documents that are response to this Request.

Respectfully submitted,

**STEVENSON & BULLOCK, P.L.C.**

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Dated: September 6, 2013